

September 9, 2008

The Honorable Mayor and Councilmembers  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102

RE: September 16, 2008 Appeal of Denied Dance Permit for  
Those Guys Inc., dba Madison's Grill and Tavern

Dear Mayor Blum and City Councilmembers:

On May 22, 2008, the City of Santa Barbara Fire and Police Commission denied the nightclub dance permit requested by Those Guys Inc., doing business as Madison's Grill and Tavern (Madison's), by a vote of 3 to 1. They came to this decision after a full and fair hearing where the applicant and opponents had the opportunity to be heard. Succinctly, the Commission's decision was the right decision and should not be overturned.

Additionally, the appeal must be denied for failure of the applicant to comply with Municipal Code 1.30.050, Appeals from Administrative Decisions. Specifically, the Code requires:

" . . . A. A written notice of appeal, stating the grounds claimed for the appeal and identifying in particular all significant issues, facts and affected parties . . ."

Madison's appeal, on May 23, 2008 (See Attachment B, page 4), does not state with any particularity the significant issues facts and affected parties. Without particularity, it is not possible for the opponents to effectively address Madison's appeal. Specifically, what are Madison's objections to the Commission's decision? Did the Commission fail to consider relevant facts during the hearing? Did the Commission make any errors that would render their decision suspect? Did the Commission not hold a fair and impartial hearing?

This issue was raised in two letters to the City Attorney's Office on May 27, 2008 (See Attachment B, page 3) and June 12, 2008 (See Attachment C). The City Attorney's office only responded to my first letter on June 19, 2008 (See Attachment D). Their response to the failure of Madison's to identify in particular all significant issues, facts and affected parties was, "The City has not typically required such a statement nor has it rejected appeals on such grounds, again in view of fairness and due process, so long as the appeal is timely." However, the Code states precisely the requirements for the acceptance of an appeal from a Commission's decision.

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Madison's appeal of denied nightclub dance permit

Furthermore, Madison's failure to identify in particular all significant issues, facts and affected parties effectively eviscerates both the fairness and due process of the appeal for the Commission and the opponents to the appeal. Not to mention, the failure of Madison's to state the grounds of its appeal in a timely manner contradicts the finality of Administrative Decisions as set forth in Section 1.30.040 of the Municipal Code.

Nonetheless, because the appeal is before you, albeit without merit, I will outline the many concerns my client presented to the Fire and Police Commission at its May 22, 2008 hearing. Obviously, the Commission found sufficient merit in the arguments raised during the hearing to deny Madison's application for a nightclub dance permit. For your review and consideration I have attached and incorporated herein my client's May 22, 2008 letter to the Fire and Police Commission as Attachment A.

Following is a summary of the reasons to deny Madison's application as presented to the Commission in May:

First, my client urged the Commission to deny the application for a nightclub dance permit because of Madison's violation of Section 5.20.070(C) 3, 4 and 5 of the Municipal Code. These sections, as follows, are grounds for denial of a nightclub dance permit application:

"Number 3, addresses, "The operation of a nightclub at the proposed permit location because it interferes with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property."

Number 4 addresses, "The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure..."

Number 5 states, "The proposed plan for maintaining security at the nightclub is inadequate."

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Second, my client noted that under Section 5.20.150 (E) of the Code that if Madison's had been operating under a valid nightclub dance permit, which they were not, it should have been revoked because Madison's, the Permittee:

1. "Has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or
2. Has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or
3. Has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the Sale of alcohol to persons under 21 years of age) as determined by the ABC; or
4. Has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements have occurred on more than one occasion; or
5. Has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter . . ."

Third, my client raised the issue that the current owners of Madison's knowingly operated a nightclub with dancing without a permit in violation of Chapter 5.20 of the Municipal Code for several years. Robert Lowry, Commander, Investigative Division, confirmed this fact in his letter to Madison's dated April 15, 2008 (See Attachment A, page 8).

Unfortunately, Madison's has been allowed to continue to operate as a nightclub with dancing since May 22, 2008 after the Fire and Police Commission denied their application for a permit. This occurred because the Secretary to the Commission and the Chief of Police in a May 23, 2008 letter to Ms. Diane Harding of Madison's attached hereto and incorporated herein as Attachment B, page 3. The letter purported to suspend the Commission's decision based on Section 5.20.090(A) of the Municipal Code that states,

**"A. NIGHTCLUB DANCE PERMIT APPEALS.** The denial or approval (including any conditions imposed thereon) of any application for a Nightclub Dance Permit under this Chapter by the Board of Fire and Police Commissioners may be appealed to the City Council by the applicant or by any interested person

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Madison's appeal of denied nightclub dance permit

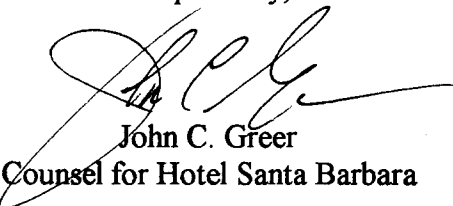
pursuant to the provisions of Section 1.30.020 of this Code. This right of appeal shall also include an action taken by the City with respect to the renewal or non-renewal of a Nightclub Dance Permit."

In both my May 27, 2008, (Attachment B, page 2) and June 12, 2008, attached hereto and incorporated herein as Attachment C, letters to the City Attorney's office I raised the issue that this section of the Municipal Code does not authorize the Secretary to the Commission and/or the Chief of Police to suspend the decision of the Fire and Police Commission. On June 19, 2008, the City Attorney's office responded that this approach is the most fair and provides full due process to all concerned. Their letter is attached hereto and incorporated herein as Attachment D.

Again, I respectfully disagree. My client and their hotel residents for the past four months have endured the same activities that led the Fire and Police Commission to deny Madison's application for a nightclub dance permit in May 2008. Accordingly, it has been anything but fair to my client and effectively circumvented the due process provided to all during the Fire and Police Commission hearing in May.

Therefore, my client respectfully requests that the Fire and Police Commission's denial of Madison's nightclub dance permit be upheld and that Madison's activities as a **nightclub with dancing** cease immediately. My client welcomes the return of Madison's Grill and Tavern as an American/Bar and Grill Restaurant.

Respectfully,



John C. Greer  
Counsel for Hotel Santa Barbara

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John C. Greer, Jr.  
Attorney at Law

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May 22, 2008

Fire and Police Commission  
% Camerino Sanchez, Police Chief  
215 E. Figueroa Street  
Santa Barbara, California 93101

Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

Dear Chairman and Members:

I represent Hotel Santa Barbara (Hotel) and respectfully request that the Commission deny the dance permit requested by Those Guys Inc., dba Madison's Grill and Tavern (Madison's). This request comports with the third recommendation from the Commission's staff that states:

"Or

3) Deny the application based on reported criminal offenses and noise concerns from the neighbors, specifically the Hotel Santa Barbara."

This permit should be denied in accordance with Chapter 5.20 of the Santa Barbara Municipal Code (SBMC), section 5.20.070 (C) 3, 4 and 5. The Commission should also deny the permit because of past violations of Section 5.20.150 (E) that are grounds for suspension or revocation of a Dance Permit. Finally, the Permit should be denied because the applicant knowingly operated the establishment for several years without a dance permit as required by the SBMC.

Specifically, number three of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 states, "The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property." My client rents rooms on a nightly and extended stay basis to visitors and business representatives who reside in rooms directly adjacent to Madison's. In fact, only three inches separate the two buildings. The noise emanating from the music at Madison's is not and cannot be contained within their structure as it permeates their walls and intrudes on the residents of the Hotel depriving them of the reasonable use and enjoyment of their residence.

Aside from the noise from Madison's permeating the Hotel, Madison's is proposing to leave the front and patio doors open according to their noise mitigation plan. Leaving the doors open will only exacerbate the noise problem, not mitigate it. If Madison's cannot restrict the noise of the dance club to within their structure they are in violation of

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Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

number four of section 5.20.070 of Chapter 5.20 of the SBMC, page 119. Specifically, the SBMC states:

"... 4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure. . ."

Number five of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 provides grounds for denying the requested dance permit if:

"... 5. The proposed plan for maintaining security at the nightclub is inadequate."

Madison's security plan of five (5) security guards on Thursday, four (4) on Friday and five (5) on Saturday is inadequate on its face based on their prior history. Attachment one is a list of fifty-seven (57) cases identified by the Santa Barbara Police Department from January 2006 through April 2008 pertaining to violations of the Municipal Code, the State Penal Code or the Business and Professions Code. Twenty-Three (23) of those cases were in 2007 and so far this year there have been 8 cases. The cases include Battery, Battery with bodily injury, assault, sexual battery, disturbing the peace fighting, drunk in public and drugs. Attachment two identifies that more than 25% of the cases were for Battery/Fighting/Assault.

Additionally, if Madison's had obtained a valid dance permit in accordance with the SBMC it should have been revoked under Section 5.20.150 (E) which states:

"The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or
2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or
3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the

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John C. Greer, Jr.  
Attorney at Law

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Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

- sale of alcohol to persons under 21 years of age) as determined by the ABC;  
or
4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements have occurred on more than one occasion; or
  5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or
  6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration.

Specifically, with the exception of number 6 above, Madison's has violated every provision of this section of the SBMC thereby providing grounds for revocation of a dance permit. It stands to reason that if there are grounds to revoke a permit, one should not be granted.

Finally, on April 15, 2008, a letter, Attachment three, was sent to Diane and Derek Harding, president and vice president, respectively, of Those Guys, Inc. dba Madison's Grill and Tavern indicating they were in violation of the SBMC 5.20 because they were operating without a dance permit. The original permit was issued to Luigi DiVicente and Lawrence DeSimone on February 22, 2001, Attachment four. The letter to Mr. DiVicente and Mr. DeSimone clearly states that the dance permit is not to be transferred to any successor interest in the business. The Harding's have been the corporate officers of Those Guys, Inc. at least since May 2002 and have been operating without a valid dance permit for six (6) years or more.

This fact is confirmed by reviewing the California Department of Alcoholic Beverage Control (ABC) License Query System Summary as of May 20, 2008, Attachment five. Most recently, the ABC cited Madison's on August 7, 2004 for sale to a minor ( Business and Professions Code, section 25658(a)) and failure to take reasonable steps to correct any objectionable conditions on the premises (24200(a&b)). Madison's was previously cited on May 7, 2002 by the ABC for violation of Section 24200(a&b) and for Penal Code section 148(a)(1) obstruction of an official investigation.

Hence, it is incongruent for the City to grant a permit to the Harding's and Madison's when they have knowingly operated their business without a dance permit in violation of the SBMC for an extended period of time.

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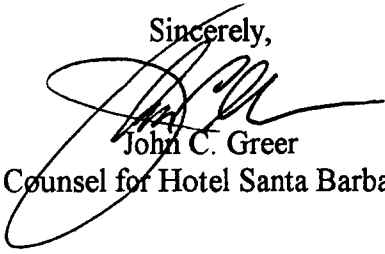
John C. Greer, Jr.  
Attorney at Law

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Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

For all the above reasons, my client respectfully requests that the Commission support Staff's recommendation number three and deny the dance permit.

Sincerely,



John C. Greer  
Counsel for Hotel Santa Barbara



15-MAY 2003 07:00

Santa Barbara Police Department - S.U.S.T.B.D.

Crime Linking Utility

ALL OFFENSES 525 STATE ST: 010136\_051508

Page 1

CASE NUMBER	OFFENSE	LOCATION	DTEOCC	TIME
00/18/06	15B12-PT OTHER >200 484PC	STATE ST 0525	01/24/06	2030
00/37/06	12C01-BATTERY 242PC	STATE ST 0525	02/17/06	0030
00/45/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/26/06	0047
00/47/06	22E07-DISTURB THE PEACE, OTHER	STATE ST 0525	03/01/06	0115
00/51/06	12C01-BATTERY 242PC	STATE ST 0525	03/04/06	2130
00/57/06	15B12-PT OTHER 50-200 484PC	STATE ST 0525	03/12/06	1200
00/97/06	22F12-THREATS	STATE ST 0525	03/24/06	0130
00/67/06	12C01-BATTERY 242PC	STATE ST 0525	03/25/06	1630
00/72/06	22A04-DRUNK 647(F)PC	STATE ST 0525	04/02/06	0145
00/77/06	12C01-BATTERY 242PC	STATE ST 0525	04/08/06	2345
00/87/06	12C01-BATTERY 242PC	STATE ST 0525	04/14/06	0001
00/91/06	22F11-MISC MISDEMEANORS/OTHER	STATE ST 0525	04/27/06	0035
01/01/06	15B13-PT W/PRIOR JAIL < \$50	STATE ST 0525	05/09/06	1900
01/02/06	22A04-DRUNK 647(F)PC	STATE ST 0525	05/11/06	1415
01/08/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	05/19/06	0140
01/27/06	22A04-DRUNK 647(F)PC	STATE ST 0525	06/11/06	0146
01/32/06	18F05-VEH CODE VIOLATION, OTHER	STATE ST 0525	06/18/06	2345
01/43/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	06/29/06	2358
01/44/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/02/06	0105
01/75/06	22A05-POSS/USE FALSE I.D.	STATE ST 0525	08/05/06	2345
01/75/06	22A04-DRUNK 647(F)PC	STATE ST 0525	08/06/06	0140
01/94/06	23C01-LOST PROPERTY	STATE ST 0525	08/28/06	0000
02/20/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	09/29/06	0130
02/37/06	12A02-ADM,KNIFE	STATE ST 0525	10/22/06	0053
02/76/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	12/15/06	2345
02/77/06	22E04-DISTURB THE PEACE, BARS	STATE ST 0525	12/16/06	2320
00/16/07	17E07-ALTERATION ECL	STATE ST 0525	01/20/07	2113
00/19/07	23C01-LOST PROPERTY	STATE ST 0525	01/20/07	0000
00/13/07	12C03-BATTERY W/BODILY INJ	STATE ST 0525	01/20/07	0030
00/17/07	22F12-THREATS	STATE ST 0525	01/26/07	2310
00/31/07	21F10-WAND, RESI, 6400-4999 594(B)(13)	STATE ST 0525	02/04/07	2000
00/30/07	22E04-DISTURB THE PEACE, BARS	STATE ST 0525	02/09/07	2130
00/41/07	15B07-PT BLOC >200 484PC	STATE ST 0525	02/25/07	2100
00/41/07	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	02/25/07	0125
00/54/07	23C01-LOST PROPERTY	STATE ST 0525	03/09/07	0000
00/70/07	22F01-DEPRAND INKESPER < \$400	STATE ST 0525	04/14/07	1700
01/04/07	20E09-POSS AMPHETAMINES 11377HS	STATE ST 0525	05/19/07	0045
01/10/07	15A12-OT OTHER 487(A)PC	STATE ST 0525	06/05/07	1100
01/21/07	22A04-DRUNK 647(F)PC	STATE ST 0525	06/10/07	0005
01/36/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	06/28/07	2255
01/48/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/13/07	0305
01/60/07	11D03-SEXUAL BATTERY 243.6PC	STATE ST 0525	07/28/07	2350
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0134
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0125
02/21/07	15B12-PT OTHER >200 484PC	STATE ST 0525	10/11/07	2130
02/27/07	23F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	10/22/07	0215
02/45/07	23F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	11/04/07	1700
04/14/07	22A04-DRUNK 647(F)PC	STATE ST 0525	12/08/07	0115
04/33/07	12C01-BATTERY 242PC	STATE ST 0525	12/17/07	0044
00/12/08	12A04-ADM, HANDS & FEET	STATE ST 0525	02/03/08	0030

## Santa Barbara Police Department - B.U.S.T.E.O

15-MAY-2008 07:00

Crime Linking Utility

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ALL OFFENSES 525 STATE ST: 010196\_051508

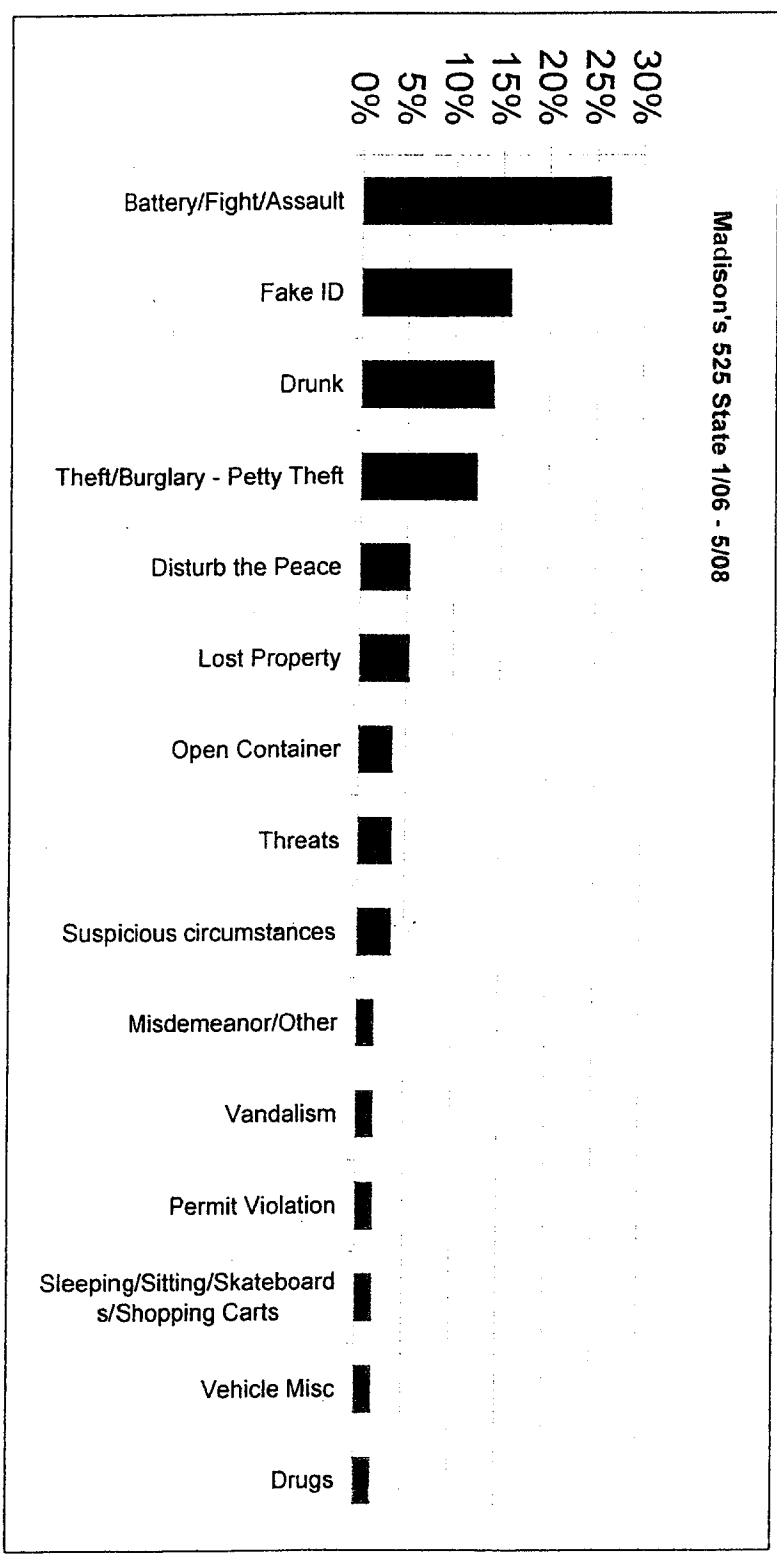
CASE NUMBER	OFFENSE	LOCATION	DTBOCC	TIME
01/45/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/29/08	0059
01/63/08	24001-MISC B&P VIOLATIONS	STATE ST 0525	03/07/08	2330
01/77/08	22A23-POSS OF SHOPPING CART	STATE ST 0525	03/13/08	2200
01/77/08	17307-ALTERATION DDL	STATE ST 0525	03/14/08	0005
02/18/08	12C01-BATTERY 245PC	STATE ST 0525	03/29/08	1147
02/35/08	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	04/04/08	2345
02/88/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	04/26/08	0130

Total record count: 57

Madison's 525 State Street  
1/1/06 - 5/8/08 Crime Stats

Attachment Two

Battery/Fight/Assault	26%
Fake ID	16%
Drunk	14%
Theft/Burglary - Petty Theft	12%
Disturb the Peace	5%
Lost Property	5%
Open Container	4%
Threats	4%
Suspicious circumstances	4%
Misdemeanor/Other	2%
Vandalism	2%
Permit Violation	2%
Sleeping/Sitting/Skateboards/Shopping Carts	2%
Vehicle Misc	2%
Drugs	2%





# City of Santa Barbara

## Police Department

www.sbpd.com

April 15, 2008

Diane and Derek Harding  
c/o Madison's Grill and Tavern  
525 State St.  
Santa Barbara, CA 93101

Re: Dance Permit Issued February 26, 2001

Chief's Office  
805.897.2395

Mr. and Mrs. Harding:

General Information  
805.897.2300

Animal Control  
805.963.1513

Business Office  
805.897.2400

Based upon a citizen complaint, the Santa Barbara Police Department recently investigated the status of the dance permit dated February 26, 2001 associated with 525 State Street and Madison's Grill and Tavern, issued to Luigi DiVicente and Lawrence DeSimone. According to our investigation, as of May 2006, neither DiVicente nor DeSimone were owners of Madison's. Since May 2006, various ownership changes have occurred. According to the issued dance permit, "[i]f the business changes ownership or address, a new permit must be obtained from this Commission (Fire and Police Commission)... [t]his permit may not be transferred to any successor interest in the business." (See enclosed copy of the dance permit dated February 26, 2001.) Furthermore, Santa Barbara Municipal Code section 5.20.130 prohibits the transfer of dance permits. Based on the foregoing, the dance permit issued on February 26, 2001 is technically void.

Community Services  
805.897.3717

Dispatch  
805.897.2410

Office of Emergency Services  
805.897.3725

To remedy the situation, you must apply for a new dance permit. A completed Nightclub Dance Permit Application (enclosed) must be submitted, along with a check for all applicable fees, to the Police Technician in the Police Department Annex, at 222 E. Anapamu Street, **no later than 4:00 p.m. on May 1, 2008**. Applicants will be required to undergo and complete all steps of the application process as mandated by Santa Barbara Municipal Code Chapter 5.20. The Santa Barbara Police Department will make every effort to process the application expeditiously. Barring any unforeseen delays, if the application is submitted by 4:00 p.m. on May 1<sup>st</sup>, it will be scheduled to be heard at the Fire and Police Commission meeting on Thursday, May 22, 2008, at which your attendance is highly recommended. **If you fail to timely submit the dance permit application, the City will be forced to commence enforcement against you.**

Parking  
805.897.2360

Please be advised that you may continue to have dancing at Madison's until your permit application is heard by the Fire and Police Commission on May 22, 2008.

Patrol  
805.897.2392

Enclosed for your convenience is a copy of Chapter 5.20 of the Santa Barbara Municipal Code pertaining to dance permits, as well as a Nightclub Dance Permit Application. If you have any further questions, please contact Police Technician Holly Michels via phone (805) 897-2333 or via email: [hmichels@sbpd.com](mailto:hmichels@sbpd.com).

Records  
805.897.2355

Sincerely,

215 E. Figueroa St.  
Santa Barbara, CA  
93101

ROBERT LOWRY  
Commander  
Investigative Division

PO Box 539  
Santa Barbara, CA  
93102



## Fire and Police Commission

## City of Santa Barbara

215 EAST FIGUEROA  
MAIL: P.O. BOX 539  
SANTA BARBARA  
93102

February 26, 2001

Mr. Luigi Divecente  
Mr. Lawrence DeSimone  
Madison's Grill & Tavern  
525 State Street  
Santa Barbara, California 93101

RE: Dance Permit Approval for Madison's Grill & Tavern, 525 State Street

Dear Mr. Divecente and Mr. DeSimone:

On February 22, 2001, the City of Santa Barbara Fire and Police Commission issued a Dance Permit at 525 State Street to *Madison's Grill & Tavern*. This permit is issued with the following conditions:

This permit is strictly limited to allow only the occupant load for the premises as is approved by the Santa Barbara City Fire Department. Business shall be conducted in a manner that will not violate any provisions of the California Alcoholic Beverage Control Act, providing against the sale of alcohol to minors (§25658); maintaining the public health, morals, convenience and safety (§25601); and taking reasonable steps to correct any objectionable conditions on the premises and immediately adjacent to the premises (§24200).

For the protection of public health and safety, no dancing shall take place in or upon any location, area or surface other than those locations, areas and surfaces that have been approved for occupancy load/dancing by the Fire Department or Building and Safety Department. Dancing in or upon an unapproved location, area or surface shall be deemed a violation of the terms and conditions of the permit and cause for the review, suspension, amendment or revocation of this permit at the discretion of the Fire & Police Commission Board. If a change in the location of approved dancing areas is desired, the applicant must re-apply to the Fire and Police Commission for approval of these changes. Such application shall require approval of the Fire Department and Building and Safety prior to being accepted for review by the Fire and Police Commission Board.

Any complaints about noise, litter, traffic problems, disturbances, damage to property, injuries to persons, or failure to cooperate with peace officers under circumstances related to the operation of this business will subject this permit to review, amendment, suspension, or revocation, at the discretion of this Commission. If the business changes ownership or address, a new permit must be obtained from this Commission and a new permit must be obtained from the Tax and Permit Office at City Hall. This permit may not be transferred to any successor interest in the business. Any other change must be reported in writing to the Commission.

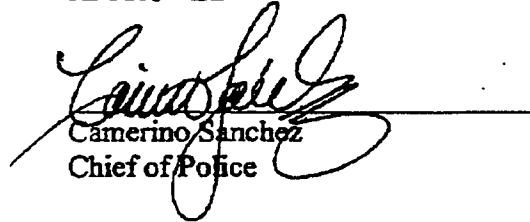
This permit is issued under the authority of the Santa Barbara Municipal Code, Chapter 5.20, §5.20.010 through §5.20.090, inclusive, and subject to all other applicable City, County and State laws, ordinances, rules, and regulations.

FIRE & POLICE COMMISSION

APPROVED



Jill B. Gordon  
Secretary to the Commission



Camerino Sanchez  
Chief of Police

Attachment

cc: Tax & Permit Office  
City Attorney  
Police Special Investigations  
Fire & Police Commissioners

*Attachment Five*

**California Department of Alcoholic  
Beverage Control**  
**License Query System Summary**  
**as of 5/20/2008**

<b>License Information</b>	
<b>License Number:</b> 346845	<b>Status:</b> ACTIVE
<b>Primary Owner:</b> THOSE GUYS INC	
<b>ABC Office of Application:</b> VENTURA	
<b>Business Name</b>	
<b>Doing Business As:</b> MADISONS GRILL & TAVERN	
<b>Business Address</b>	
<b>Address:</b> 525 STATE ST	<b>Census Tract:</b> 0009.
<b>City:</b> SANTA BARBARA	<b>County:</b> SANTA BARBARA
<b>State:</b> CA	<b>Zip Code:</b> 93101-1601
<b>Licensee Information</b>	
<b>Licensee:</b> THOSE GUYS INC	
<b>Company Officer Information</b>	
<b>Officer:</b> HARDING DIANE ELIZABETH, PRESIDENT/TREASURER	
<b>Officer:</b> HARDING DEREK MARK, VICE PRESIDENT/SECRETARY	
<b>License Types</b>	
1) <b>License Type:</b> 47 - ON-SALE GENERAL EATING PLACE	
<b>License Type Status:</b> ACTIVE	
<b>Status Date:</b> 31-JAN-2000	<b>Term:</b> 12 Month(s)
<b>Original Issue Date:</b> 31-JAN-2000	<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> Y	<b>Duplicate:</b> 0 <b>Fee Code:</b> P40
2) <b>License Type:</b> 30 - TEMPORARY PERMIT	
<b>License Type Status:</b> ISSUE	
<b>Status Date:</b> 21-SEP-1998	<b>Term:</b> 0 Month(s)
<b>Original Issue Date:</b>	<b>Expiration Date:</b>
<b>Master:</b> Y	<b>Duplicate:</b> 0 <b>Fee Code:</b> NA
3) <b>License Type:</b> 58 - CATERER PERMIT	
<b>License Type Status:</b> ACTIVE	
<b>Status Date:</b> 31-JAN-2000	<b>Term:</b> Month(s)
<b>Original Issue Date:</b> 31-JAN-2000	<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> N	<b>Duplicate:</b> 1 <b>Fee Code:</b> NA
4) <b>License Type:</b> 30 - TEMPORARY PERMIT	
<b>License Type Status:</b> ISSUE	
<b>Status Date:</b> 01-OCT-1999	<b>Term:</b> 0 Month(s)

## California ABC - License Query System - Data Summary

Page 2 of 2

*Attachment Five*

<b>Original Issue Date:</b>		<b>Expiration Date:</b>	
<b>Master: Y</b>	<b>Duplicate: 0</b>	<b>Fee Code: NA</b>	
<b>Current Disciplinary Action</b>			
... No Active Disciplinary Action found ...			
<b>Disciplinary History</b>			
<b>Violation Date: Reg. Number: 00049952 Cleared On: 07-MAY-2002</b>			
<b>Reporting Agency: SANTA BARBARA P.D.</b>			
<b>1) Charge Date:</b>		<b>Section Violated: 24200(a&amp;b)</b>	
<b>Charge: GROUNDS FOR ACTION</b>			
<b>2) Charge Date:</b>		<b>Section Violated: PC148(a)(1)</b>	
<b>Charge: DELAYED AND OBSTRUCTED INVESTIGATION</b>			
<b>Proceeding Status: COMPLETE Decision:</b>			
<b>Suspension Days: Stayed Days POIC/Fine:</b>			
<b>Suspension Start Date: Suspension End Date:</b>			
<b>Proceeding Status: COMPLETE Decision: REJECTED</b>			
<b>Suspension Days: Stayed Days POIC/Fine:</b>			
<b>Suspension Start Date: Suspension End Date:</b>			
<b>Proceeding Status: COMPLETE Decision: DISMISSED</b>			
<b>Suspension Days: Stayed Days POIC/Fine:</b>			
<b>Suspension Start Date: Suspension End Date:</b>			
<b>Violation Date: 07-AUG-2004 Reg. Number: 04058293 Cleared On: 18-JAN-2005</b>			
<b>Reporting Agency: ABC</b>			
<b>1) Charge Date: 07-AUG-2004</b>		<b>Section Violated: 24200(a&amp;b)</b>	
<b>Charge: GROUNDS FOR ACTION</b>			
<b>2) Charge Date: 07-AUG-2004</b>		<b>Section Violated: 25658(a)</b>	
<b>Charge: SALE TO MINOR</b>			
<b>Proceeding Status: COMPLETE Decision: SUSPENDED</b>			
<b>Suspension Days: 10 Stayed Days 10 POIC/Fine:</b>			
<b>Suspension Start Date: Suspension End Date:</b>			
<b>Hold Information</b>			
... No Active Holds found ...			
<b>Escrow</b>			
... No Escrow found ...			

--- End of Report ---

For a definition of codes, view our [glossary](#).



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John C. Greer, Jr.  
Attorney at Law

June 3, 2008

The Honorable Mayor and City Councilmembers  
City of Santa Barbara  
735 Anacapa Street  
Santa Barbara, California 93101

Re: Appeal of Fire and Police Commission Denial of Dance Permit for  
Madison's Bar and Grill

Dear Mayor Blum and City Councilmembers:

I represent Hotel Santa Barbara. On your agenda today, item 18, is requesting that you set a date for the hearing of an appeal by Madison's Bar and Grill of the denial of their application for a dance permit.

The agenda item incorrectly states that it is a revised permit. Madison's for a significant period of time has been and continues to operate without a dance permit. Detective Bryan Jensen of the Santa Barbara Police Department, based on his investigation of Madison's, determined that the dance permit issued to Luigi DiVicente and Lawrence DeSimone on February 26, 2001 was void. Hence, Madison's was required to apply for a new permit.

Additionally, I sent a letter to the City Attorney on May 27, 2008 questioning the authority of the Chief of Police and Secretary to the Police and Fire Commission in their May 23, 2008 letter suspending the decision of the Commission, in a 3 to 1, vote denying the application for a dance permit. My letter to the City Attorney also questioned the adequacy of Those Guys, Inc., dba Madison's, appeal letter dated May 23, 2008 based on a failure to state the grounds of their appeal as required in the municipal code. I have attached all three letters.

I am bringing these issues to your attention for two reasons. First, my client is being injured, daily, because of the unjustified suspension of the Police and Fire Commission's action. Second, my client is being injured because the City has accepted an appeal of the Police and Fire Commission's decision without adequate grounds being stated by the appellant.

Yours truly,



John C. Greer

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John C. Greer, Jr.  
Attorney at Law

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May 27, 2008

Michelle Montez, Esq.  
Assistant City Attorney  
770 State Street, Suite 201  
Post Office Box 1990  
Santa Barbara, California 93102-1990

RE: Police Chief suspension of Fire and Police Commission action and  
Madison's failure to state grounds for their appeal

Dear Ms. Montez:

I was surprised to receive a letter dated May 23, 2008 signed by the Secretary to the Fire and Police Commission and the Chief of Police suspending the action of the Commission denying Madison's Dance Permit until the City Council appeal. It was disconcerting when the City allowed Madison's to continue their operation even though it was clear they did not have a valid dance permit. However, I can find no authorization in the Municipal Code that allows the Chief of Police to suspend the action of the Commission.

In fact, the SBMC section 1.30.040 clearly states that the administrative decision is final. Please provide me with the authority for the Chief to suspend the Commission's action. If he did not have the authority then Madison's should not have operated as a Dance Club this past weekend.

Furthermore, the May 23, 2008 letter from Those Guys, Inc, dba Madison's Grill and Tavern does not in accordance with SBMC 1.30.050 state, " the grounds claimed for the appeal and identifying in particular all significant issues, facts and affected parties shall be filed with the City Clerk within ten (10) days after the day such decision is voiced . . ." This impedes my client's ability to respond to the appeal.

Your immediate attention to these issues is appreciated. Also, please advise me of when the appeal is scheduled so that I can provide my client's response in a timely manner.

Yours truly,

John C. Greer



# Fire and Police Commission

## City of Santa Barbara

215 EAST FIGUEROA  
MAIL: P.O. BOX 539  
SANTA BARBARA  
93102

May 23, 2008

Diane Harding  
5130 Calle Real  
Santa Barbara, CA 93111

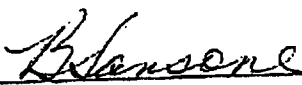
RE: Dance Permit – Madison's Grill & Tavern – 525 State St.

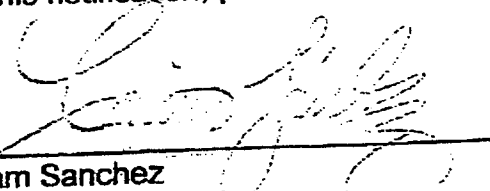
Dear Ms. Harding:

This letter is to officially notify you that, at their regular meeting of May 22, 2008, the City of Santa Barbara Fire & Police Commission voted 3-1 in favor of denying your application for a revised dance permit at Madison's Grill & Tavern located at 525 State St.

Pursuant to Santa Barbara Municipal Code §1.30.050 (copy attached), if you wish to appeal the decision of the Commission to the City Council, you have ten (10) days from the date of this letter to file such appeal, in writing, with the City Clerk's Office. Should you elect to appeal the Commission's decision in a timely fashion to the City Council in accordance with SBMC section 5.20.090(A), the Commission's decision will be suspended pending a decision by the City Council on your appeal.

If you have any questions or concerns regarding this notification, please contact Deputy Chief Glaus @ 897-2390.

  
Barbara Sansone  
Secretary to the Commission

  
Cam Sanchez  
Chief of Police

Attachment

cc: Tax & Permit Office  
City Attorney  
Police Special Investigations  
Fire & Police Commissioners

THOSE GUYS, INC.,  
A California Corporation  
525 STATE STREET  
SANTA BARBARA CA 93101

May 23, 2008

City of Santa Barbara  
735 Anacapa Street  
Santa Barbara CA 93101

Re Dance Permit - Madison's Grill and Tavern, 525 State Street

To whom it may concern:

THOSE GUYS, INC., dba Madison's Grill and Tavern, hereby appeals from the decision of the Fire and Police Commission dated May 23, 2008, denying its application for revised dance permit at Madison's Grill and Tavern, 525 State Street and request a full hearing before the City Council as provided for in Santa Barbara Municipal Code, § 1.30.050, et seq. and 5.20.090, et seq.

Please advise as to when the appeal shall be heard. Additionally, please send copies of all notices associated with the appeal to our legal counsel, Michael P. Ring at 1234 Santa Barbara Street, Santa Barbara CA, 93101

Dated: May 23, 2008

  
Diane Harding, Pres.

John C. Greer, Jr.  
Attorney at Law

June 12, 2008

Stephen P. Wiley, Esq.  
City Attorney  
770 State Street, Suite 201  
Post Office Box 1990  
Santa Barbara, California 93102-1990

RE: Police Chief suspension of Fire and Police Commission action and  
Madison's failure to state grounds for their appeal

Dear Mr. Wiley:

Thank you for taking the time the other day to discuss the issues surrounding the continued dance operation of Madison's Tavern without a permit. Diane and Derek Harding applied for a dance permit that was denied by the Police and Fire Commission on May 22, 2008. The reason for denial was based on the third recommendation in the Staff's report to the commission that states, "Deny the application based on reported criminal offenses and noise concerns from the neighbors, specifically the Hotel Santa Barbara." The Harding's appealed to the City Council and the appeal is scheduled for September 16, 2008.

From our conversation, it is my understanding that the City's position is that the Harding's were not applying for a dance permit but merely bringing the permit issued to Mr. Divincente and Mr. DeSimone on February 22, 2001 up-to-date. Hence, the action by the Commission was suspended until the appeal is heard by the City Council.

However, the facts indicate that the Harding's have never been issued a dance permit. Specifically, Commander Lowry in his April 15, 2008 letter to the Harding's referring to the permit issued to Mr. Divincente and Mr. DeSimone states,

"According to the issued dance permit, "[i]f the business changes ownership or address, a new permit must be obtained from this Commission (Fire and Police Commission)...[t]his permit may not be transferred to any successor interest in the business." (See enclosed copy of the dance permit dated February 26, 2001.) Furthermore, Santa Barbara Municipal Code section 5.20.130 prohibits the transfer of dance permits. Based on the foregoing, the dance permit issued on February 26, 2001 is technically void.

To remedy the situation, you must apply for a new dance permit."

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John C. Greer, Jr.  
Attorney at Law

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Page Two

June 12, 2008

RE: Police Chief suspension of Fire and Police Commission action and  
Madison's failure to state grounds for their appeal

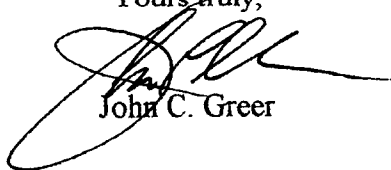
Accordingly, the Harding's applied for a dance permit that was denied after a hearing by the Police and Fire Commission in accordance with the Santa Barbara Municipal Code. At that hearing the applicant and opponents had the opportunity to be heard. At the conclusion of the hearing the Commission denied the permit based on the grounds set forth by City Staff. This occurred after Ms. Montez advised the Commission that the applicant would not be able to reapply for one year if their application was denied. Also referring to a question from the Commission about status of the application she stated, "Just to clarify, it would actually be a denial because they are applying for a new permit."

Even after our conversation, based on the facts, I am at a loss to understand the authority being claimed by City Staff to suspend a decision of the Police and Fire Commission. Furthermore, as I indicated in my letter to Ms. Montez, on May 27, 2008, the appeal by the Harding's does not appear to meet the standards set forth in the Municipal Code and should not have been accepted by the City Clerk.

Finally, I did not understand your suggestion that my client could ask for a suspension and revocation hearing since the Harding's dance permit was denied. However, I did argue before the commission in my May 22, 2008 remarks, previously provided to your office, that if the Harding's had obtained a dance permit it should have been revoked under Section 5.20.150 of the City's Code. Also, as I indicated my client has previously sent at least a dozen letters to the City indicating the negative impact the dance clubs are having on their business. Unfortunately, the City has not responded to most of my client's complaints. If you would like copies of those letters, I will provide them.

I again respectfully request that the Commission's decision to deny the dance permit be honored by City Staff by not allowing Madison's restaurant to operate an un-permitted dance club. To do otherwise, as stated in my remarks to the City Council on June 3, 2008, knowingly and willfully causes injury to my client, daily.

Yours truly,



John C. Greer



# City of Santa Barbara

Office of the City Attorney

[www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov)

Stephen P. Wiley • City Attorney • Tel: 805.564.5326 • Fax 805.897.2532

*Street Address:* 740 State Street, Suite #201 Santa Barbara, California 93101

*Mailing Address:* Post Office Box 1990 Santa Barbara, California 93102

June 19, 2008

John C. Greer, Jr.  
Attorney at Law  
1641 Mission Drive, Suite 304  
Solvang, California 93463

Re: Appeal of Fire and Police Commission Action—Madison's Bar and Grill  
Response to Letter Dated May 27, 2008

Dear Mr. Greer:

You contacted me by letter on May 27, 2008 and we also spoke by telephone that same day, regarding the Fire and Police Commission's action regarding Madison's Bar and Grill. You also contacted the Mayor and Councilmembers by letter and during public comment on June 3, 2008.

You raise a concern over the suspension of the Fire and Police Commission's decision. The City has typically suspended the application of any final decision until the appeal period has run or the appeal has been decided for permits involving the operation of a business. This approach is the most fair and provides full due process to all concerned, but the owner of the business potentially impacted by the loss of a business permit.

You also raise a concern that Madison's Bar and Grill did not adequately state reasons for its appeal of the Fire and Police Commission's action. The City has not typically required such a statement nor has it rejected appeals on such grounds, again in view of fairness and due process, so long as the appeal is timely.

You may contact me at 897-2578 if you have further questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michelle Montez", is written over the typed name.

Michelle Montez  
Assistant City Attorney